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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,211	04/28/2005	Jaap Andre Haitzma	2167.007US1	7069
21186 7590 03/25/2008 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
PATIL, NIRAV B				
ART UNIT		PAPER NUMBER		
2135				
MAIL DATE		DELIVERY MODE		
03/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/533,211

Applicant(s)

HAITSMA, JAAP ANDRE

Examiner

NIRAV PATEL

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-8 and 12-26.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/KIMYEN VU/
Supervisory Patent Examiner, Art Unit 2135

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed 03/05/08 have been fully considered but they are not persuasive.

Regarding to the applicant argument that the combination of Cano with Petrovic does not yield the matching method of claims 1", Examiner recognizes that obviousness can also be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ 2nd 1941 (Fed. Cir 1992). In this case, Cano's invention relates to method for comparing observed fingerprints against a huge database with reference fingerprints. After the extraction of the fingerprint, the system compares fingerprints from observed audio signal against reference fingerprints in a database. As shown in Fig. 6, wherein it is disclosed that AudioGenes have additional time information which is a significant difference to standard string applications, and that this information is used in the an approximate matching algorithm (see Fig. 6, applying approximate matching algorithm starting at the position of the previously found position). Therefore, Cano teaches matching a set of input fingerprint blocks using matching algorithm/mechanism as above. Further, Petrovic's invention relates to digital watermarking of host signals (e.g. audio signal, video signals...) and using the relative position of watermarks within a host signal to represent embedded information. As shown in 1, the extractor extracts the plurality of watermarks from the received watermarked host signal. Once the first watermark is detected, the extractor switches from watermark searching to a watermark matching mode [Fig. 2 i.e. wherein t_a denotes a position of a first watermark and t_b denotes a position of a second watermark]. Therefore, an analogous art, Petrovic teaches the matching mechanism/algorithm based on the positions of the watermarks as above. In this case, the combination teaches the claim limitation and the combination is sufficient to incorporate the teaching of Petrovic into the teaching of Cano to detect and match the watermarks (fingerprints) based on the position. The modification would be obvious because one of ordinary skill in the art would be motivated to provide copy control and media verification [Petrovic, col. 1 lines 58-60].

Based on the reason above the cited prior art teaches the claim limitation, however, if the applicant believes that the pending claims are distinct from the cited prior art, applicant needs to further clarify distinction between the claim limitation and the prior art, or further clarify the claim limitation/language.